

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DAVID ELIJAH BOWERS, JR.,

Plaintiff,

v.

Case No. 17-cv-805-pp

CHRIS ABELE, *et al.*,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL
(DKT. NO. 16)**

The plaintiff filed his case in June 2017. Dkt. No. 1. The court dismissed the case on July 21, 2017, because the plaintiff had not filed a motion to proceed without prepaying the filing fee or paid the filing fee, and because he had not provided the court with his new address or timely filed a form indicating whether he consented to a magistrate judge deciding his case. Dkt. No. 3. The court entered judgment the same day. Dkt. No. 4. The plaintiff then asked to reinstate the case and amend his complaint. Dkt. Nos. 5, 7. He also asked to proceed without prepaying the filing fee. Dkt. No. 8. And he provided the court with his new address. Dkt. No. 9. The court allowed the plaintiff to reinstate the case, but because he has had at least three cases dismissed because they were frivolous or failed to state a claim, the court denied his motion to proceed without prepaying the filing fee and ordered him to pay the \$400 filing fee by May 22, 2018. Dkt. No. 13. The plaintiff did not pay the filing fee by the due date, so the court dismissed the case without prejudice the next day. Docket No. 14.

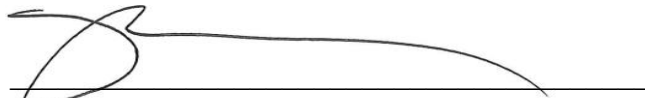
About seven months later, on December 10, 2018, the court received the current motion for appointment of counsel (in which the plaintiff also notified the court that his address has changed). Docket No. 16. The motion says that the plaintiff filed a motion “for vacancy of dismissal without prejudice under Fed. R. Civ. P. Rule 60,” and says that “the motion had not been adjudged in common law or fact.” Id. at 1. He asks the court to appoint counsel “to assist on presenting arguments.” Id. at 2.

The plaintiff is correct that he filed a motion for reinstatement under Rule 60. See Dkt. No. 7. He is mistaken in his belief that the court did not rule on that motion—it did, in an order it issued on May 8, 2018. Dkt. No. 13. The court *granted* the motion and reinstated the plaintiff’s case, but ordered him to pay the filing fee. The reason this case is dismissed, and closed, is because the plaintiff has not paid the filing fee. If the plaintiff wants to pursue the claims he made in the June 7, 2017 complaint, he must file a new complaint—a new case—and pay the \$400 filing fee for filing that case. The court will not reopen or reinstate this case.

The court **DENIES** the plaintiff’s motion for appointment of counsel. Dkt. No. 16.

Dated in Milwaukee, Wisconsin this 24th day of January, 2019.

BY THE COURT:



HON. PAMELA PEPPER
United States District Court Judge